



## MEMORANDUM

TO: **Chiefs, Deputies, Federal Liaisons, and Communications Directors**  
FROM: **CCSSO**  
DATE: **December 4, 2014**  
SUBJECT: **Notice of Proposed Rulemaking on HEA Title II and TEACH Grants – Detailed Analysis**

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In the December 3, 2014 Federal Register, the U.S. Department of Education (ED) published a notice of proposed rulemaking (NPRM) that would establish new teacher preparation accountability regulations under Title II of the Higher Education Act (HEA) and amend regulations governing the Teacher Assistance for College and Higher Education (TEACH Grants) program under HEA Title IV. The deadline for commenting on this NPRM is February 2. The notice may be accessed at <http://www.gpo.gov/fdsys/pkg/FR-2014-12-03/pdf/2014-28218.pdf>.

On November 26 we provided a brief, initial summary of the NPRM as posted on the ED website. The purpose of this memo is to provide a more detailed explanation of the proposal.

### **Background**

Under HEA Section 205, each institution of higher education (IHE) that operates a traditional teacher preparation program (or a program that provides an alternative route to teacher certification) and enrolls students receiving federal assistance must provide an annual “report card” to the state in which the program is located and to the general public. By statute this report must include information such as whether the IHE has met its performance goals for increasing the number of prospective teachers trained in teacher shortage areas designated by the state educational agency or ED, the passage rates and average test scores of its teacher preparation students on state teacher certification or licensure tests, the teacher preparation program’s admissions criteria and student demographics, and whether the program has been designated as low-performing by the state.

Section 205 also requires each state to submit to ED, and make widely available, an annual report card on the quality of teacher preparation in the state. This report card must include such information and address such issues as the standards and criteria (which must include indicators of students’ academic content knowledge and teaching skills) that prospective teachers must meet in order to receive initial licensure, information on the reliability and validity of the state’s teacher licensure assessments, the scores and passages rates on those assessments for students from each institution and program in the state, the state’s criteria for assessing the quality of its preparation programs, the admissions criteria and student demographics of each program, and the extent to which the state’s programs are addressing

teacher shortages. This state report card must be issued “in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary.”

Finally, Section 205 also requires the Department to publish and make widely available a national report card on the quality of teacher preparation that includes all of the information collected from the states.<sup>1</sup>

HEA Section 207 requires each state to conduct an assessment that identifies its low-performing teacher preparation programs and to assist those programs in improving. The state must provide ED with an annual list of its low-performing programs and of programs at risk of being identified as low-performing. The statute specifies that the levels of performance used by the state in making these determinations are to be determined solely by the states. A program for which the state has withdrawn approval, due to low performance, is ineligible for ED teacher professional development funding, and the program may not include students who receive Title IV student aid.

The HEA also requires ED to regulate to ensure the reliability, validity, integrity and accuracy of the Section 205 report cards and to ensure that states and IHEs use fair and equitable methods in reporting, and it authorizes the Department to promulgate, through a negotiated rulemaking process, regulations governing the termination of Title IV eligibility for low-performing programs.

The TEACH program, authorized by HEA Title IV, Part A, Subpart 9, provides grants of up to \$4,000 annually to undergraduate and graduate students who have demonstrated high performance and aptitude (based on grade-point average and test scores) and commit to teaching math, science, foreign language, bilingual education or reading at a high-need school. Recipients use these grants to undergo teacher preparation at an institution that, among other things, “Provides high-quality teacher preparation and professional development services.” Currently, some 34,000 students enrolled in approximately 800 institutions participate in the program; fewer than 100 IHEs enroll the vast majority of participants.

The Department has stated (including in the new NPRM) that the existing Section 205 reporting framework has not resulted in stakeholders receiving sufficient information on program quality and that the existing data make it difficult to identify programs deserving of recognition or those in need of remediation or closure. The Department thus determined that new regulations are needed that define the indicators of quality that states use to assess the performance of their teacher preparation programs, including (as defined by the Department) more meaningful measures of program inputs and outcomes. The Department also believes that the existing rules and procedures for TEACH Grants do not ensure that the program supports enrollment only in high-quality programs. (According to the NPRM, only 38 teacher preparation programs in 2011 were identified as low-performing or at risk of low performance, and 22 of those programs were based in IHEs participating in the TEACH program.)

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<sup>1</sup> The most recent national report card is available at <https://title2.ed.gov/TitleIIReport13.pdf>.

In order to address these concerns, in late 2011 the Department solicited public comments and convened a negotiated rulemaking committee on regulations for Title II reporting and TEACH Grants. Because the negotiated rulemaking committee was unable to reach a consensus, the Department has developed and released its own proposed regulations.

### **Summary of the Proposed Regulations**

*Institutional Report Card (IRC)*—Starting in October<sup>2</sup> 2017 (covering the 2016-2017 academic year) and annually thereafter, each institution would report to the state and the public using an IRC format prescribed by the Department. The institution would also be required to post the IRC prominently and promptly on its website.

Note that the proposed regulations would not eliminate content currently required for IRCs. The Department intends to specify the content through a future Paperwork Reduction Act approval process. Unless and until that process is initiated and completed, the current content requirements remain in place and any new directive from the Department will have to include the content requirements specified in the statute.

*State Report Card (SRC)*—Beginning in April 2018 and annually thereafter, each state would have to submit to the Secretary and make widely available to the public an SRC on the quality of all approved teacher preparation programs in the state, including distance education programs. This report must include all of the information currently required under section 205(b) of HEA, such as pass rates on licensure exams. Implementation of these requirements is not currently funded at the federal level.

Beginning in April<sup>3</sup> 2019<sup>4</sup> and annually thereafter, states would have to make meaningful differentiations in teacher preparation program performance using at least four performance levels—low-performing, at-risk, effective and exceptional—based on the following indicators:

- Student learning outcome—the aggregate learning outcomes of students taught by the teacher, based on “student growth” (change in student achievement, in both tested<sup>5</sup> and

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<sup>2</sup> The new October 1 annual reporting deadline would be six months earlier than the current deadline of April 1.

<sup>3</sup> States currently report by April 1, but for the second preceding academic year. (Each institution reports to the state by April 1 its data for the preceding academic year. The state then reports for that year by the following April 1. For example, the April 2015 SRC will cover academic year 2012-2013.) Under the proposed schedule, a state would receive the institutional data (for the preceding academic year) by October 1 and then complete its SRC by April 1. Thus the SRC would be completed a year earlier than under current practice.

<sup>4</sup> States would be permitted but not required to implement the new reporting requirements in 2018.

<sup>5</sup> In the tested grades and subjects, student growth would be measured using, at a minimum, the assessments administered in accordance with Title I of the Elementary and Secondary Education Act, and, as appropriate, other measures.

non-tested<sup>6</sup> grades and subjects, over time), a “teacher evaluation measure” (percentage of new teachers<sup>7</sup> rated at each performance level under a school district teacher evaluation system meeting certain criteria, including that the system include student growth as a significant evaluation factor), or both.

- Employment outcomes—the rates of teacher placement<sup>8</sup>, teacher retention<sup>9</sup>, placement in a high-need (high-poverty) school and retention in a high-need school for the new teachers and recent graduates produced by a program. (It is important to note that states would have the option of excluding new teachers and graduates who take teaching positions outside the state, those who take teaching positions in private schools, those who take teaching positions that do not require certification, and those who enter the military or graduate school.)
- Survey outcome data—qualitative and quantitative data collected through, at a minimum, surveys of new teachers and of their employers or supervisors that are designed to capture perceptions of whether teachers in their first year of teaching have the skills needed to succeed in the classroom. The NPRM does not specify whether all new teachers and their employers would need to be surveyed or, alternatively, whether sampling could be used.
- Accreditation or state approval—whether the teacher has graduated from a program that is accredited or meets the criteria described above (i.e., that provides quality clinical experience, content and pedagogical knowledge, etc.).

In categorizing programs into one of the four performance levels, a state would have to use, in significant part, employment outcomes for high-need schools and student learning outcomes (aggregate learning outcomes for students taught by a new teacher). A program could not be rated effective or exceptional unless it demonstrated satisfactory student learning outcomes.

The SRC would also include disaggregated data for each program on each of the indicators identified above, in addition to assurance that each program either: (1) is accredited by a

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<sup>6</sup> Student growth in the non-tested grades and subjects would be measured using such indicators as comparison of pre-course and end-of-course test results, the results of performance-based assessments, and other measures that are rigorous and comparable across schools.

<sup>7</sup> A “new teacher” would be defined as a teacher who has received certification within the previous three years and teaches at the K-12 level, although a state could also elect to include preschool teachers. A “recent graduate” would be an individual who has met all of the program’s requirements within the last three years, regardless of whether he or she has been licensed or has begun teaching.

<sup>8</sup> The teacher placement rate would be defined as the rate at which graduates are hired to teach in the subject and grade level for which they were prepared. States would have the option of excluding new teachers and graduates who take teaching positions outside the state, those who take teaching positions in private schools, those who take teaching positions that do not require certification, and those who enter the military or graduate school.

<sup>9</sup> The NPRM provides three options for calculating the retention rate. The state would have similar flexibility, as with regard to the placement rate (see footnote 8), to exclude certain new teachers and recent graduates from the calculation.

specialized accrediting agency, or (2) produces teacher candidates with “quality clinical preparation” and “content and pedagogical knowledge” and who have met “rigorous teacher candidate exit and entry qualifications,” as those three terms are defined in the NPRM.<sup>10</sup> In deciding whether to make these assurances for unaccredited programs, the state would need to make judgments on such issues as the quality of clinical training, the qualifications of staff who supervise that training, the academic content provided by programs, whether those programs prepare students to teach all students effectively, the rigor of program entrance criteria, and the assessments used to determine whether a student is ready to graduate from a program.

The report must also provide the states weighting of each of the different indicators above and the state level rewards or consequences associated with designated performance levels.

A state’s SRC would report individually on all teacher preparation programs approved to operate in the state<sup>11</sup>, although there would be separate, someone more flexible, reporting options for programs that produce fewer than 25 new teachers a year. Programs too small for any of those options to work, or for which reporting would violate privacy laws, would be exempted.

Note also that, under current practice, all traditional programs operated by a single IHE are considered a single program for reporting and accountability purposes, as are all alternative-route programs operated by an IHE. The NPRM proposes that each program now be reported on separately, in order to prevent the dilution of data on program quality.

Finally, in developing its procedures for assessing and reporting program quality, the state would be required to consult with stakeholders, including representatives of some 17 interests prescribed in the regulation.

*State Identification of Low-Performing or At-Risk Teacher Preparation Programs*—In addition to the SRC, the NPRM includes a separate provision with respect to what a state must consider in

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<sup>10</sup> In brief, the Department proposes to define:

- (1) a “quality clinical experience” as training that integrates content, pedagogy, and professional coursework around a core set of pre-service clinical experiences, with training that is provided by qualified clinical instructors, and includes multiple clinical or field experiences that serve diverse student audiences and that are assessed using a performance-based protocol;
- (2) “content and pedagogical knowledge” as an understanding of the central concepts and structures of the discipline in which the teacher candidate has been trained and an understanding of how to make that discipline accessible and meaningful for all students, including English language learners and students with disabilities; and
- (3) “rigorous teacher candidate entry and exit qualifications” as, at a minimum, rigorous program entry criteria based on multiple measures and rigorous exit criteria based on assessment of the candidate’s performance.

<sup>11</sup> The report would cover both programs operated by IHEs and programs (such as “alternative-route” programs) that are operated by other entities, even though certain provisions of HEA Section 205(b) reference only programs at IHEs. The Department specifically invites public comment on whether the proposed rules would provide alternative-route programs with the information they need on their participants and graduates and on whether the rules would provide equivalent accountability for traditional and alternative-route programs.

identifying “low-performing” or “at-risk” programs. The SRC categorizes each program into one of four performance levels based, in significant part, on “employment outcomes for high need schools and student learning outcomes.” However, in identifying low-performing or at risk teacher preparation programs, the NPRM requires states to use criteria that includes “in significant part, student learning outcomes.” Note that employment outcomes are not a significant factor in identifying low-performing or at-risk programs.

States must provide programs identified as low-performing with technical assistance to help improve their performance. In addition, any program for which the state has “withdrawn the state’s approval or the state has terminated the state’s financial support due to the state’s identification of the program as a low-performing teacher preparation program” is ineligible for ED teacher professional development funding, and the program may not include students who receive Title IV student aid.<sup>12</sup>

The statute also requires the state to provide transitional support, including remedial services if necessary, for students enrolled in that program at the time of termination. The NRPM provides that this transitional support would continue for the period of time a student remains in the program but for not more than 150 percent of the “published length” of the program. In addition, the state would be required to notify the Department within 30 days of terminating a program’s approval or support, and the IHE would notify each affected student of his or her ineligibility for Title IV aid.

*Program Eligibility for TEACH Grants*—Once the new rules are fully phased in, a teacher preparation program would be eligible to participate in the TEACH Grants program if it: (1) has been rated by the state as “effective” or better in at least two of the previous three years<sup>13</sup>; (2) is not included in the state’s SRC because of its small size; or (3) is an eligible science, technology, engineering or math (STEM) program.

An eligible STEM program would be defined as a program in one of the STEM fields that has had at least 60 percent of its recent TEACH recipients complete at least one year of teaching in fulfillment of the TEACH service obligation within three years of completing the program.<sup>14</sup> If these criteria are met, a STEM program would be eligible whatever its performance classification, if any, under the state’s system. Students participating in STEM programs would major in a STEM field, not in education, but their institutions would arrange for them to take the courses needed for them to enter teaching. The Department would publish an annual list of eligible STEM programs.

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<sup>12</sup> Being designated as low-performing or at-risk would not, by itself, make a program ineligible for Title IV assistance and professional development. As in current practice, a program would also have to have its state approval or state financial support withdrawn in order to become ineligible.

<sup>13</sup> For the 2020-2021 award year, a program would be eligible if it is identified as effective or better in the 2019 or 2020 state report card.

<sup>14</sup> The Department specifically invites comments on whether the three-year window is appropriate and on whether other content areas, such as foreign languages, should be singled out.

*Other Proposed Regulations for TEACH Grants* – The NPRM also includes several other, probably noncontroversial, revisions to the TEACH regulations. These address issues related to duration of student eligibility, the service obligation, the procedures for discharge from the service obligation because of a disability, and the reinstatement of TEACH eligibility of an individual who has received a discharge. Some of these proposed changes would simply update the regulations to reflect statutory amendments made by the Higher Education Opportunity Act of 2008.

### **Recap of the Proposed Implementation Deadline**

Under the NPRM, the implementation of these additions and changes to the Title II and TEACH Grants regulations would be as follows:

2015-2017	States set up data systems necessary for establishment of their performance rating systems.
April 2017	IHEs submit final IRCs under the old system, covering academic year 2015-2016.
October 2017	IHEs submit initial IRCs under the new system, covering academic year 2016-2017
April 2018	States submit final SRC under the old system (covering academic year 2015-2016) and the first SRC under the new system (covering academic year 2016-2017). The new SRCs may meet the new reporting requirements on a pilot basis.
April 2019	SRCs must meet the new reporting requirements (must group teacher preparation programs into the four categories).
2020-2021	Programs not rated as effective are higher are ineligible for TEACH Grants.